IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 30TH JANUARY 2007 / 10TH MAGHA 1928

Crl.MC.No. 228 of 2007()

CC.592/1996 of CHIEF JUDL.MAGISTRATE, ERNAKULAM
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PETITIONER/ACCUSED:

B.VASUDEVAN,
S/o. BALAKRISHNAN,
LAKSHMIKRIPA,
OPP: SARADAMANDIRAM,
P.O. KOLATHARA, CALICUT

BY ADV. SRI.P.V.THOMAS

RESPONDENT/COMPLAINANT:

STATE OF KERALA REPRESENTED
BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 30/01/ 2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.228 of 2007

Dated this the 30th day of January, 2007

ORDER

The short grievance of the petitioner is that he who has been appearing before the learned Chief Judicial Magistrate regularly for the past about one decade happened to be absent unfortunately on 22.01.2007 on account of his illness and could not be present before court because there was a traffic block. No witness was present. The learned Magistrate has issued notice to the sureties and non bailable warrant against the accused. The petitioner therefore finds a warrant of arrest issued by the learned Magistrate chasing him. He apprehends that notwithstanding his prior record of being present on all dates of posting, the learned Chief Judicial Magistrate may not consider his application for bail on merits, in accordance with law and expeditiously when he surrenders before the learned Magistrate. Counsel submits that the petitioner apprehends that a direction may be issued for making cash deposit and the petitioner who is poor will not be able to afford such cash security. The petitioner has valid reasons to explain why he could not appear on 22.01.2007 and his counsel could not make a proper representation on that date. He further relies on the fact that there was absolutely nothing which obliged his presence on the last date of posting as there was no

witness is present and for absence of the petitioner the progress of the case has not been retarded.

2. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for bail on merits, in accordance with law and expeditiously. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not appear on 22.01.2007. No special or specific direction appears to be necessary. Every court must consider such application for bail on merits, in accordance with law and expeditiously. Insistence on cash security when an accused is unable to afford the same can be resorted to only when compelling reasons are there. I cannot assume that the learned Magistrate would not consider the bail application in accordance with law.

3. This Crl.M.C is, in these circumstances, dismissed, but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

4. Hand over a copy of this order to the learned counsel for the petitioner today itself.

(R.BASANT, JUDGE)

rtr/-